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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91199793
Party	Defendant Gibson II, Jack H.
Correspondence Address	GIBSON II, JACK H. 370 S 5TH ST APT 410 COLUMBUS, OH 43215-5435 jack.gibson@rootfruit.net
Submission	Answer
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Date	06/21/2011
Attachments	answer TTAB 847.pdf (6 pages)(96198 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

The Ohio State University)	
)	
)	
Opposer,)	Opposition No. 91199793
v.)	
)	
Jack H. Gibson II,)	
)	
)	
Applicant.)	

ANSWER

Now comes Applicant, Jack H. Gibson II, by and through undersigned counsel, and hereby answers the above-styled Opposition as follows:

1. Applicant denies the allegations in Paragraph 1 of the Notice of Opposition.
2. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 2 of the Notice of Opposition.
3. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 3 of the Notice of Opposition.
4. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 4 of the Notice of Opposition.
5. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 5 of the Notice of Opposition.
6. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 6 of the Notice of Opposition.
7. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 7 of the Notice of Opposition.

8. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 8 of the Notice of Opposition.
9. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 9 of the Notice of Opposition.
10. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 10 of the Notice of Opposition.
11. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 11 of the Notice of Opposition.
12. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 12 of the Notice of Opposition.
13. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 13 of the Notice of Opposition.
14. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 14 of the Notice of Opposition.
15. Applicant denies the allegations in Paragraph 15 of the Notice of Opposition.
16. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 16 of the Notice of Opposition.
17. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 17 of the Notice of Opposition.
18. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 18 of the Notice of Opposition.
19. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 19 of the Notice of Opposition.

20. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 20 of the Notice of Opposition.
21. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 21 of the Notice of Opposition.
22. Applicant admits that it has applied for registration for BUCKEYE JUICE as a standard character mark for use in connection with “Energy drinks; Non-alcoholic beverages, namely, carbonated beverages; Sports drinks”, and otherwise denies any other allegation in Paragraph 22 of the Notice of Opposition not specifically admitted as true.
23. Applicant admits that the students, alumni, fans, and supporters of OSU might be at least partially within a target market of Applicant, and otherwise denies any other allegation in Paragraph 23 of the Notice of Opposition not specifically admitted as true.
24. Applicant denies the allegations in Paragraph 24 of the Notice of Opposition.
25. Applicant denies the allegations in Paragraph 25 of the Notice of Opposition.
26. Applicant admits that its specimen depicts goods bearing Applicant’s applied for mark, and otherwise denies any other allegation in Paragraph 26 of the Notice of Opposition not specifically admitted as true.
27. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 27 of the Notice of Opposition.
28. Applicant admits that it has promoted at least one product on at least one social media website, and otherwise denies any other allegation in Paragraph 28 of the Notice of Opposition not specifically admitted as true.

29. Applicant admits that the phrase “Get Bucked up” has appeared on at least one of its products, and otherwise denies any other allegation in Paragraph 29 of the Notice of Opposition not specifically admitted as true.
30. Applicant denies the allegations in Paragraph 30 of the Notice of Opposition.
31. Applicant denies the allegations in Paragraph 31 of the Notice of Opposition.
32. Applicant denies the allegations in Paragraph 32 of the Notice of Opposition.
33. Applicant denies the allegations in Paragraph 33 of the Notice of Opposition.
34. Applicant denies the allegations in Paragraph 34 of the Notice of Opposition.
35. Applicant denies the allegations in Paragraph 35 of the Notice of Opposition.
36. Applicant denies the allegations in Paragraph 36 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

1. The Notice of Opposition fails to properly plead or state sufficient grounds upon which relief can be granted against Applicant.
2. Any claim for relief by Opposer is barred by laches, estoppel, waiver, acquiescence, and/or unclean hands.
3. Opposer has not acquired any rights in any mark that would entitle it to oppose Applicant’s subject mark.
4. Opposer has no claim to the exclusive right of neither BUCKEYE nor JUICE, nor any combination of them.

WHEREFORE, Applicant requests that the Board deny Opposer's requests and dismiss this Opposition with prejudice.

Dated: June 21, 2011

Respectfully submitted,

s/RONALD J. KOCH/
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Attorney for Applicant Jack H. Gibson II

CERTIFICATE OF SERVICE

I do hereby certify that the foregoing was duly served upon the parties listed below on June 21, 2011 by email and first class US Mail, postage prepaid.

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s/RONALD J. KOCH/